

63 FLRA No. 165

SOCIAL SECURITY ADMINISTRATION
SAN JUAN, PUERTO RICO
(Agency)
and

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES
COUNCIL 2608
(Union)

0-AR-4465

DECISION

August 3, 2009

Before the Authority: Carol Waller Pope, Chairman and
Thomas M. Beck, Member

This matter is before the Authority on exceptions to an award of Arbitrator Sue Olinger Shaw filed by the Agency under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Union filed an opposition to the Agency's exceptions.

Under § 7122(a) of the Statute, an award is deficient if it is contrary to any law, rule, or regulation, or it is deficient on other grounds similar to those applied by federal courts in private sector labor-management relations. Upon careful consideration of the entire record in this case and Authority precedent, the Authority concludes that the award is not deficient on the grounds raised in the exceptions and set forth in § 7122(a).^{*1} *See United States Dep't of Labor (OSHA)*, 34 FLRA 573, 575 (1990) (award not deficient as failing to draw its essence from the parties' collective bargaining agreement where excepting party fails to establish that the award cannot in any rational way be derived from the agreement; is so unfounded in reason and fact and so

unconnected to the wording and purpose of the agreement as to manifest an infidelity to the obligation of the arbitrator; does not represent a plausible interpretation of the agreement; or evidences a manifest disregard of the agreement).

Accordingly, the Agency's exceptions are denied.

1. * To the extent that the Agency asserts that the award is contrary to management's right to assign employees under § 7106(a)(2) of the Statute, such assertion was not raised before the Arbitrator and, therefore, is not properly before the Authority under 5 C.F.R. § 2429.5. *See AFGE, Local 1741*, 57 FLRA 696 (2002). Accordingly, we dismiss this exception.